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IN THE U.S. PATENT AND TRADEMARK OFFICE

1415-8
PATENT
70126-47961

In re Application of:

Applicant: Eric Begleiter

Serial No.: 10/031,765

Art Unit: 1615

Filed: January 23, 2002

Examiner: Liliana Di Nola Baron

For: Edible Holographic Products, Particularly
Pharmaceuticals and Methods and Apparatus
For Producing Same

CERTIFICATE OF MAILING UNDER 37 C.F.R. 1.8

I hereby certify that the following Response to Restriction Requirement is being deposited with the United States Postal Service in an envelope by first class mail, postage prepaid on December 15, 2003, addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Date: 12-15-03
Laurie J. Brown

RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Office Action mailed on October 15, 2003 requiring Applicant to restrict prosecution of this application to one of three groups of claims, Applicant herewith elects to prosecute:

Group I, claims 1-28, drawn to a pharmaceutical dosage form comprising an active substance, which may be in a core, and a thermoformable layer, with traverse.

This election is made solely to comply with the Restriction Requirement. The right to file divisional applications on non-elected subject matter is reserved.

With respect to the traverse, applicant first notes that the inventions defined by the claims in Groups I-III are clearly related (not independent). The product of claims 1-28 can be made by the process of claims 29-52 using apparatus defined by claims 53-62. The invention defined by all these claims is directed to the mass manufacture of edible products with microrelief patterns that can create holographic images and effects.

The appropriateness of a restriction requirement then turns on whether related claims are distinct.

Applicant agrees that the product claims of Group I can be made by processes other than those defined by claims 29-53, e.g., the laser interference process of Fig. 32 of the present application, and using other apparatus than that defined by claims 53-62, e.g. the laser apparatus shown in Fig. 32. Applying the U.S. restriction practice guidelines of §806.05(f) and (g), applicant therefore agrees that a finding of distinctiveness may be made with respect to the product claims of Group I.

Applicant disagrees that the method and apparatus claims of Groups II and III are distinct under the guidelines set forth in MPEP §806.05(e).

The Group II process as claimed cannot be performed using apparatus that is materially different from that claimed in Group III, or by hand. Conversely, the apparatus as claimed, will not operate to carry out a process that is materially different from the one defined by the Group II claims. Groups II and III claims define two faces of the same invention, apparatus and product analogs, directed to the single end of mass

production of edible products with a microrelief pattern that can create a holographic image or effect. Withdrawal of the restriction at least as between Groups II and III is therefore respectfully requested.

With respect to Group I, while a finding of distinctiveness may be made, restriction is not a statutory requirement between related claims. Further, there is an intimate relationship among all the claims as drafted (Groups I, II and III). Because of this close relationship, any search directed to one of the three groups identified by the Examiner would encompass substantially the same search areas as any search directed to the other group of claims. Searching all of the pending claims, those in Groups I, II and III, would therefore not impose a substantial burden on the Examiner.

Applicant is filing herewith a Preliminary Amendment adding claims directed to the laser interference process (claims 69 to 72) shown in Fig. 32 and described at least at page 32, lines 16 to 26, and to products (claims 63 to 68) formed using this process. If the Examiner finds that these claims should also be placed under a restriction requirement, applicant reaffirms the election of Group I claims for the prosecution. Also, while product claim 63 is independent, product claim 67, depending from claim 1, and product claim 68, depending from claim 67, should be classified as part of Group I.

For the reasons stated above, applicant provisionally elects for examining claims 1-28 classified in Group I, but requests that the restriction requirement be withdrawn, in total, or at least withdrawn as between Groups II and III.

Applicant has petitioned for a one-month extension of time to and including
December 15, 2003, together with the appropriate fee.

Respectfully submitted,

Date: DEC. 15, 2003

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